

### **REMARKS**

The initial paragraph has been amended to update the priority claim to United States patent application serial number 09/640,440, now United States patent 6,364,938. Applicant has amended the specification to include the reference numerals 12 and 14 shown in Figure 1. Applicant has enclosed Formal drawings with this response. Further, Applicant has enclosed a newly executed declaration including inventor citizenship and the proper statement concerning the duty to disclose material that has become available between the filing dates of the priority application.

Claims 1-8,10,11,16 and 17-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Birbara et al (U.S. Patent No. 6,364,938). The current application is a continuation in part of Birbara and was filed prior to the patenting of Birabara and is therefore entitled to a common filing date with Birbara. Accordingly, Birbara was not filed before the invention by Applicant and is not prior art over this application.

Claims 1,5,6,7,9,10,11,15,16,17-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Brose et al (US Patent No. 4, 822,383). Claims 1,7,8,14,16, 17-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Simon et al (US Patent No. 3,738,084). Further, claims 1,7,8,12,13,16,17-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Yearout (US Patent No. 3,594,983).

Claims 1 and 17 have been amended to include the limitation that the sorbent is an amine nitrile CO<sub>2</sub> sorbent, wherein a major portion of the amine portion of the sorbent is made from at least one functional nitrile group. Brose et al, Simon et al and Year out do not disclose this limitation, and therefore do not anticipate amended claims 1 and 17.

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully submitted,

**CARLSON, GASKEY & OLDS, P.C.**




JOHN M. SIRAGUSA  
Registration No. 46,174  
Attorneys for Applicant  
CARLSON, GASKEY & OLDS, P.C.  
400 West Maple Road, Suite 350  
Birmingham, Michigan 48009  
(248) 988-8360

Dated: July 30, 2003

**CERTIFICATE OF MAILING**

I hereby certify that the Response is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on July 30, 2003.

  
Theresa M. Palmateer